

FILED

AUG 29 2006

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DANNY ATTERBURY,  
Plaintiff,

No. C 06-1420 MHP (pr)

**ORDER OF DISMISSAL**

v.

DAVE GRAZIANI; et al.,  
Defendants.

This pro se civil action was filed on February 24, 2006, at which time the Court notified plaintiff in writing that the action was deficient due to the failure to pay the filing fee or furnish a completed and signed Court-approved in forma pauperis application, including a completed certificate of funds in the inmate's account and a copy of the inmate's trust account statement for the last six months. Plaintiff was advised that failure to pay the fee or file the application within thirty days would result in dismissal of the action. Plaintiff did not pay the filing fee or file the requested application and the deadline by which to do so has passed.

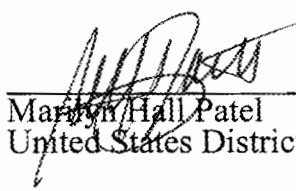
Regardless of whether plaintiff (who is committed to a mental hospital after being convicted of murder and sentenced to a term of years) is considered a prisoner, the court still must have information from him about his financial wherewithal (such as his trust account statement) so that it can determine whether to grant him in forma pauperis status for plaintiff and whether to require him to pay any partial filing fee.

The action is DISMISSED without prejudice for failure to pay the filing fee or submit a completed in forma pauperis application. Plaintiff may file a new action, but should

1 include a filing fee or an in forma pauperis application with a new complaint to commence  
2 that new action. Because this action is now being dismissed, plaintiff should not file an in  
3 forma pauperis application or pay the filing fee in this action. The clerk shall close the file.

4 IT IS SO ORDERED.

5 DATED: August 28, 2006

  
Marilyn Hall Patel  
United States District Judge